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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,696	05/29/2001	Glenn G. Strawder		5731

7590
William D. Hall
10850 Stanmore Drive
Potomac, MD 20854-1522

10/18/2007

EXAMINER

PORTER, RACHEL L

ART UNIT	PAPER NUMBER
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3626

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/865,696	Applicant(s) STRAWDER, GLENN G.	
	Examiner Rachel L. Porter	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 3/26/07. Claims 28-46 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 28, 30, 33, 38, and 42-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Howson et al (USPN 5,088,981).

[claim 28] Howson et al discloses an apparatus for monitoring the operations of an operator of a machine that performs a medical function, comprising:

- a computer having a memory, (col. 6, lines 27-36)
- said memory including a standard protocol of operations that an operator should perform when using said machine to perform said medical function, (col. 6, lines 60-68; col. 12, lines 13-38)
- apparatus for receiving, and entering into said memory, the operations of the operator of said machine during the use of the machine to perform said medical function, (col. 8, lines 58-68; col. 12, lines 13-38)

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- said computer including a program for comparing said standard protocol with said operations that were entered by said apparatus. (col. 8, lines 58-68— monitoring compliance of patient with prescribed delivery schedule)

[claim 30] Howson discloses the apparatus as defined in claim 28, in which said computer provides information on procedures performed by said machine. (col. 8, lines 58-68; col. 12, lines 13-38)

[claim 33] Howson discloses a method of monitoring the operations of an operator of a medical machine which gathers medical information about a patient, comprising:

- providing a computer with a memory, (col. 6, lines 27-36)
- providing said memory with a standard protocol for operating said machine to perform a medical function, (col. 6, lines 60-68; col. 12, lines 13-38)
- entering into said memory the operations of said operator in operating said machine, (col. 8, lines 58-68; col. 12, lines 13-38)
- providing comparisons by said computer which compare said standard protocol and said operations of said operator. (col. 8, lines 58-68)

[claim 38] Howson discloses the method as defined in claim 33, in which said computer compares an actual operation of each machine with a standard

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procedure and determines any difference or similarity between said standard procedure and said actual operation. (col. 8, lines 58-68)

[claim 42] Howson discloses the apparatus for monitoring the operations of an operator as defined in claim 28, wherein the "apparatus for receiving and entering into said memory" comprises a device that enters the operations of said operator into said memory before said medical function is completely performed. (col. 16, lines 41-63)

[claim 43] Howson discloses the apparatus for monitoring the operations of an operator as defined in claim 42 in which each operation of the operator is entered into said memory before the next operation takes place. (col. 8, lines 58-68; col. 16, lines 41-63)

[claim 44] Howson discloses the method defined in claim 33, in which said operations of the operator are entered into said memory before said machine gathers said medical information. (col. 8, lines 58-68; col. 15, lines 65-col. 16, line 2)

[claim 45] Howson discloses the method defined in claim 44, in which each entry into the computer for one operation of the operator is made before the next operation of the operator takes place. (col. 8, lines 58-68; col. 16, lines 41-63)

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[claim 46] Howson discloses the method of monitoring the work of an operator of a medical machine comprising:

- providing a medical machine which requires an operator to make plural operations in order for such machine to produce desired results, (col. 6, lines 27-36; col. 8, lines 58-68; col. 15, line 58-col. 16, line 2))
- providing a computer with a memory, (col. 6, lines 27-36)
- entering into said memory data which represents operations of said operator in operating said machine with each such entry occurring prior to the next operation of said machine undertaken by said operator, and (col. 8, lines 58-68)
- comparing said entries into said memory with a standard protocol. (col. 8, lines 58-68; col. 12, lines 44-66)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31-32 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howson.

[claim 31-32] Howson discloses the apparatus as defined in claim 28, as explained in the rejection of claim 28. Howson further discloses an apparatus in which

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said computer compares an actual operation of each said machine with a standard procedure and determines any difference between said standard procedure and said actual operation. (col. 8, lines 58-68). Howson further discloses an apparatus for receiving, and entering into said memory, the operations of the operator of the machine during the use of the machine to perform said medical function, (col. 8, lines 58-68; col. 12, lines 13-38).

Howson does not disclose that there is a plurality of machines each of which performs a medical function or plural computers, including at least one computer for each machine. However, at the time of the applicant's invention it would have been obvious to one of ordinary skill in the art to modify the apparatus of Howson to include a plurality of machines, each which performing a medical function or a plurality of machines, each including a computer. (Multiplication or duplication of parts for multiple effects is an obvious modification over the prior art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)) One would have been motivated to include this feature to increase the efficiency of the system, by allowing more than one operator to work at one time.

[claim 35-36] Howson discloses the method of claim 33 as explained in the rejection of claim 33. Howson also discloses providing a computer with a memory, (col. 6, lines 27-36) providing said memory with a standard protocol for operating said machine to perform a medical function, (col. 6, lines 60-68; col. 12, lines 13-38); providing an

operator for operating said machine, (col. 8, lines 58-68; col. 12, lines 13-38) and providing comparisons by said computer which compare said standard protocol and said operations of said operator. (col. 8, lines 58-68).

Howson does not expressly disclose a method in which there are a plurality of machines each of which perform a medical function, plural operators for operating said machines, providing computer comparisons of said standard protocol with the operations of each operator. Furthermore, Howson does not disclose the step of providing at least one computer for each machine of the plurality of machines.

However, at the time of the applicant's invention it would have been obvious to one of ordinary skill in the art to modify the apparatus of Howson to include a plurality of machines each of which perform a medical function, plural operators for operating said machines, providing computer comparisons of said standard protocol with the operations of each operator and providing at least one computer for each machine of the plurality of machines. (Multiplication or duplication of parts for multiple effects is an obvious modification over the prior art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)) One would have been motivated to include this feature to increase the efficiency of the system, by allowing more than one operator to work at one time.

[claim 37] Howson discloses a method as defined in claim 35, in which said computer provides information on procedures performed on said machines as well as summaries of the operations of the machine. (col. 8, line 58-68; col. 12, lines 53-66)

Howson does not expressly disclose that this step is performed for a plurality of computers or machines.

However, at the time of the applicant's invention it would have been obvious to one of ordinary skill in the art to modify the apparatus of Howson to include a plurality of machines and a plurality of computer comparisons/ summaries for each machine and the operations performed on the machines. (Multiplication or duplication of parts for multiple effects is an obvious modification over the prior art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)) One would have been motivated to include this feature to increase the efficiency of the system, by allowing more than one operator to work at one time.

6. Claims 29,34 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howson in view of Dorne (USPN 5,325,293).

[claim 29] Howson discloses the apparatus as defined in claim 28, as explained in the rejection of claim 28. However, Howson does not disclose an apparatus in which said computer has an output which sets forth prices computed from the operations performed by said machine.

Dorne discloses an apparatus in which a computer has an output which sets forth prices computed from the operations performed by said machine. (i.e. determining how many of a particular examination have been performed and determining how much money a particular number of examinations produce) (col. 9, lines 53-60; col. 15, lines

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60-co1.16, line 19) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Howson with the teaching of Dorne to provide output on the prices computed from operations performed by a machine. As suggested by Dorne, one would have been motivated to include this feature to provide physicians and medical personnel with billing information without requiring them to have a thorough understanding of the complex nomenclature used in the CPT coding system (col. 3, lines 1-15)

[claim 34] Howson discloses the method of claim 33 as explained in the rejection of claim 33, but does not disclose in which said computer computes prices useful for billing purposes from the operations of said machine.

Dorne discloses an apparatus in which a computer has an output which sets forth prices computed from the operations performed by said machine. (i.e. determining how many of a particular examination have been performed and determining how much money a particular number of examinations produce) (col. 8, line 58-68; col. 9, lines 53-60; col. 15, lines 60-co1.16, line 19) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Howson with the teaching of Dorne to provide output on the prices computed from operations performed by a machine. As suggested by Dorne, one would have been motivated to include this feature to provide physicians and medical personnel with billing information without requiring them to have a thorough understanding of the complex nomenclature used in the CPT coding system (col. 3, lines 1-15)

[claim 39] Howson teaches the method of claim 33 as explained in the rejection of claim 33, but does not expressly disclose a method wherein prices useful for billing purposes are computed based on the operations of said operator. However, Howson does disclose recorder the operations of the operator. (col. 12, lines 53-59)

Dorne discloses an apparatus in which a computer has an output which sets forth prices computed from the operations performed by said machine. (i.e. determining how many of a particular examination have been performed and determining how much money a particular number of examinations produce) (col. 9, lines 53-60; col. 15, lines 60-co1.16, line 19) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Howson with the teaching of Dorne to provide output on the prices computed from operations performed by a machine. As suggested by Dorne, one would have been motivated to include this feature to provide physicians and medical personnel with billing information without requiring them to have a thorough understanding of the complex nomenclature used in the CPT coding system (col. 3, lines 1-15)

7. Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howson in view of Prince (US 5417213)

[claim 40] Howson discloses the apparatus as defined in claim 28, but does not disclose a machine that also takes a picture of a part of a body. Prince discloses an infusion system connected to an MRI system, which takes a picture of a part of the

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body. (col. 12, lines 9-36) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Howson with the teaching of Prince to combine an infusion system with an MRI system (a machine which takes pictures of a part of the body.) As suggested by Prince, one would have been motivated to include this feature to facilitate proper or desired timing between the injection of the magnetic resonance agent and the acquisition of image data, in addition to providing proper rates of infusion of the contrast agent. (col. 12, lines 19-25).

[claim 41] Howson discloses the method of claim 33, but does not disclose a method wherein said performance of a medical function comprises taking a picture of a part of a body. Prince discloses an infusion system connected to an MRI system, which takes a picture of a part of the body. (col. 12, lines 9-36) At the time of the applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Howson with the teaching of Prince to combine an infusion system with an MRI system to take pictures of a part of the body. As suggested by Prince, one would have been motivated to include this feature to facilitate proper or desired timing between the injection of the magnetic resonance agent and the acquisition of image data, in addition to providing proper rates of infusion of the contrast agent. (col. 12, lines 19-25).

Response to Arguments

8. Applicant's arguments with respect to claims 28-46 have been considered but are moot in view of the new ground(s) of rejection.

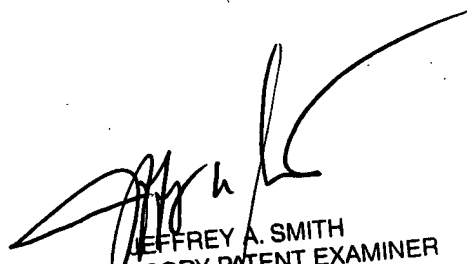
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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